



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/549,786

06/13/2006

Peter Alex

5284-0006WOUS

3723

35301 7590 10/10/2008
MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD, CT 06103

EXAMINER

MAUST, TIMOTHY LEWIS

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

10/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,786	Applicant(s) ALEX ET AL.	
	Examiner Timothy L. Maust	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/19/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kihm.

In Re Claims 1, 5,

A fluid transfer system (see Figure 1) comprising:

a fluid container (2) configured to receive a liquid;

means for pressurizing (28) the liquid in the container, comprising a deformable envelope defining a space for receiving a gas, a deformation of the envelope effecting a contraction of the space to a contracted condition, such that, when the space includes the gas, the deformation of the envelope results in the contraction of the space to effect a transfer of at least a portion of the gas to the container to thereby effect pressurization of the liquid in the container (see col. 4, lines 23-44);

a dispensing nozzle (48) including:

a fluid passage (108) having a nozzle inlet (110), a nozzle outlet (120), and an orifice for effecting fluid communication between the nozzle inlet and the nozzle outlet, the orifice being defined by a valve seat (see valve 114 in Figures 4-6), the nozzle inlet fluidly communicating with the container for effecting a discharge of the liquid from the container;

Art Unit: 3751

a sealing member (defined by plate 132; see Figures 5 and 6) biased into sealing engagement with the valve seat for sealing fluid communication between the nozzle inlet and the nozzle outlet; and

a manually operated actuator (50) for effecting displacement of the sealing member from the valve seat to effect fluid communication between the nozzle inlet and the nozzle outlet.

In Re Claim 2,

See column 5, lines 8-10.

In Re Claim 3,

Valve 114 has to be in the closed position to pressurize the fluid container (2) and plate (132) is biased closed by spring (152) (see column 5, lines 10-27).

In Re Claims 4, 6 and 7,

Pump (28) is described as claimed in column 4, lines 23-48 and the pump contains a first valve (88) and second valve (90).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kihm.

In Re Claim 8,

The Kihm reference discloses the invention substantially as claimed including a one-way flapper valve (88), but doesn't disclose the second valve (90) being a flapper valve. It would have been an obvious matter of design choice to make valve (90) a flapper valve, since applicant has not disclosed that a flapper valve rather than a ball valve solves any stated problem and it appears that the invention would perform equally well with a flapper valve or a ball valve.

In Re Claim 9,

A pressure differential is created by pump (28) to pressurize the container (2) and allow fuel to flow through nozzle (48).

In Re Claims 10 and 11,

See the inlet (62) having a first conduit (54) in Figure 2 and outlet at cap (44) has a flexible second conduit (30) in Figure 1.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kihm in view of Hau.

In Re Claims 12 and 13,

Kihm discloses the invention substantially as claimed including a vent (92), but doesn't disclose flexible first conduit. However, the Hau reference discloses another fluid transfer system having a pump (17) and flexible conduit (18) to pressurize container (11). Therefore, it would have been obvious to one of ordinary skill in the art at the time

Art Unit: 3751

the invention was made to substitute a pump and flexible conduit for the pump and conduit on the Kihm device as, for example, taught by Hau wherein so doing would amount to mere substitution of one functional equivalent pressurizing pump for another within the same art and the selection of any of these pumps would work equally well in the Kihm device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art or record pertains to various pressurized dispensing systems, similar in structure to that of the Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4883. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
Art Unit 3751

/TLM/